


PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 2565-0297PUS1	
	Application Number 10/584,194-Conf. #1262	Filed May 25, 2007	
	First Named Inventor Takehiro OHKOSHI et al.		
	Art Unit 2431	Examiner K. Abrishamkar	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant /inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>40,439</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____</p> <p> _____ Signature D. Richard Anderson Typed or printed name (703) 205-8035 Telephone number July 6, 2009 Date</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <p><input type="checkbox"/> *Total of <u>1</u> forms are submitted.</p>			

Docket No.: 2565-0297PUS1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Takehiro OHKOSHI et al.

Application No.: 10/584,194

Confirmation No.: 1262

Filed: May 25, 2007

Art Unit: 2431

For: AUTHENTICATED DEVICE,
AUTHENTICATING DEVICE AND
AUTHENTICATING METHOD

Examiner: K. Abrishamkar

REQUEST FOR PRE-APPEAL BRIEF CONFERENCE

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Madam:

INTRODUCTORY COMMENTS

Applicants request review of the Final Rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed concurrently with a Notice of Appeal.

The review is being requested for the reasons set forth on the attached sheets.

ARGUMENTS

The Examiner Has Failed To Establish Prima Facie Anticipation By Failing To Provide A Teaching Or Suggestion Of All Of The Claim Elements

Claims 1-10 are rejected under 35U.S.C. § 102(e) as being anticipated by Edgett et al. (U.S. Patent Publication No. US 2004/0034771; hereinafter "Edgett").

Independent claim 1

Independent claims 1 is directed to an authenticated device. The authenticated device as in claim 1 recites, "a transmitting unit to transmit the at least one algorithm identifier and the at least one encryption key identifier stored by the memory unit to an authenticating device; a receiving unit to receive a prescribed algorithm identifier and a prescribed encryption key identifier, which are selected from among the at least one algorithm identifier and the at least one encryption key identifier transmitted by the transmitting unit."

In the Final Rejection (page 2, paragraph 2), the Examiner relies on paragraphs [0057] and [0058] in Edgett to teach the above-noted features. Specifically, the Examiner argues that Edgett discloses updating an algorithm by changing the key pair. As such, Edgett discloses providing a key index and an algorithm identifier. However, the updated key index and algorithm identifier are NOT a prescribed algorithm identifier and a prescribed encryption key identifier, which are selected from among the at least one algorithm identifier and the at least one encryption key identifier transmitted by the transmitting unit as claimed.

In Edgett, when a dialer containing an old algorithm communicates with a network, the dialer encrypts a password using the old algorithm. The encrypted password, a corresponding key index and an associated algorithm identifier are then transmitted to the server. The server then utilizes the algorithm identifier to identify the corresponding algorithm to be used for decrypting the password for authentication. Once the dialer is connected to the server, the dialer contacts the Update Server to determine if an algorithm update is required. If so, the new algorithm and its associated key identifier are downloaded to the dialer. See paragraphs [0056]-[0059] of Edgett. In other words, the dialer transmits old algorithm to the server for authentication and receives a new algorithm if there is an algorithm update required. However,

the new algorithm and the new corresponding algorithm identifier represent a newly developed algorithm and are completely unrelated to the old algorithm and the old corresponding algorithm identifier transmitted by the dialer. See paragraph [0057]. Thus, contrary to the assertion by the Examiner, the updated key index and algorithm identifier are NOT a prescribed algorithm identifier and a prescribed encryption key identifier, which are selected from among the at least one algorithm identifier and the at least one encryption key identifier transmitted by the transmitting unit as claimed.

Independent claim 4

Independent 4 is directed to an authenticating device. The authenticating device recites, “a selecting unit to select a prescribed algorithm identifier and a prescribed encryption key identifier to be stored by the memory unit from among the at least one algorithm identifier and the at least one encryption key identifier received by the receiving unit, when the at least one algorithm identifier and the at least one encryption key identifier stored by the memory unit exist among the at least one algorithm identifier and the at least one encryption key identifier received by the receiving unit; a transmitting unit to transmit the prescribed algorithm identifier and the prescribed encryption key identifier selected by the selecting unit to the authenticated device.”

The Final Rejection fails to respond to Applicants’ arguments in responding to the Non-Final Rejection with respect to claim 4. The Examiner merely restates that Edgett, in paragraphs [0058] and [0059], teaches the above-noted features.

Edgett discloses storing a private key, its corresponding key index and the algorithm identifier in a private key database of a server. However, Edgett is completely silent with respect to a selecting unit to select a prescribed algorithm identifier and a prescribed encryption key identifier to be stored by the memory unit from among the at least one algorithm identifier and the at least one encryption key identifier received by the receiving unit as claimed. Furthermore, even if, *arguendo*, the algorithm identifier stored in Edgett is the prescribed algorithm identifier selected from among the at least one algorithm identifier and the at least one encryption key identifier received by the receiving unit, Edgett still fails to disclose or suggest a transmitting unit to transmit the prescribed algorithm identifier and the prescribed encryption key identifier

selected by the selecting unit to an authenticated device as claimed. Contrary to the assertion by the Examiner, the updated algorithm and algorithm identifier transmitted to the dialer represent a newly developed algorithm and are completely unrelated to the old algorithm and algorithm identifier stored in the server.

Independent claims 7 to 10

Independent claims 7 to 10 are directed to a method for authenticating. Claim 7 recites:

a selecting step to select, at the authenticating device, a prescribed algorithm identifier and a prescribed encryption key identifier to be stored by the authenticating device from among the plurality of algorithm identifiers and the plurality of encryption key identifiers received by the receiving step, when the at least one algorithm identifier and the at least one encryption key identifier stored by the authenticating device exist among the plurality of algorithm identifiers and the plurality of encryption key identifiers received by the first receiving step;

a second transmitting step to transmit the prescribed algorithm identifier and the prescribed encryption key identifier selected by the selecting step, from the authenticating device to the authenticated device;

a second receiving step to receive the prescribed algorithm identifier and the prescribed encryption key identifier transmitted by the second transmitting step, from the authenticating device, at the authenticated device.

Claims 8-10 recite similar features. The Final Rejection fails to respond to Applicants' arguments in responding to the Non-Final Rejection with respect to claims 7 to 10. The Examiner merely restates that Edgett, in paragraphs [0055] and [0057] to [0059], teaches the above-noted features.

It is demonstrated above that Edgett fails to teach or suggest the above-noted features for the reasons discussed with respect to claims 1 and 4.

In addition, Edgett is merely concerned with a dialup computer, which sends encrypted user credential to a server for gaining access to a network. If there is an updated key/algorithm, the server then sends the updated key/algorithm to the dialup computer. Therefore, a single set of key/algorithm is communicated between the dialup computer and the server. Thus, with

respect to claims 7 and 9, Edgett simply does not disclose transmitting or receiving a plurality of algorithm identifiers and a plurality of encryption key identifiers between an authenticated device and an authenticating device.

Therefore, Edgett's teachings are improperly relied upon to teach the specific features claimed of claims 1, 4 and 7-10. Thus, the rejection should be withdrawn.

CONCLUSION

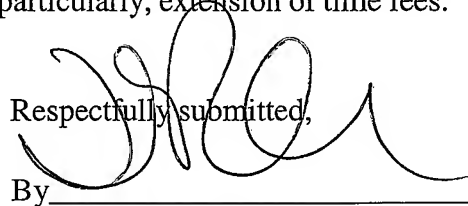
In summary, the Examiner has committed clear error on several grounds as detailed above. Therefore, all outstanding rejections should be withdrawn and the case should be allowed.

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is respectfully requested to contact Dennis P. Chen (Reg. No. 61,767) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Dated: June 6, 2009

Respectfully submitted,



By _____
D. Richard Anderson
Registration No.: 40,439
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant